

**Congress of the United States**  
**House of Representatives**  
Washington, DC 20515

April 15, 2020

The Honorable Alex M. Azar II  
Secretary  
U.S. Department of Health and Human Services  
200 Independence Avenue, SW  
Washington, DC 20201

The Honorable Seema Verma  
Administrator  
Centers for Medicare and Medicaid Services  
U.S. Department of Health and Human Services  
200 Independence Ave, SW  
Washington, DC 20201

Dear Secretary Azar and Administrator Verma:

As doctors, hospitals, and health care providers are critical to the COVID-19 public health emergency, we want to first thank you for your work to assist their response. However, as the pandemic continues, we urge you to continue to use all of the tools available to ensure that the healthcare system remains viable. Today, we ask that you allow for expanded flexibility to utilize the Medicare Accelerated and Advance Payment Program by using your authority to lower or waive the 10.25 percent interest rate.

Again, we are grateful for the Department of Health and Human Services' (HHS) rapid response under the authority granted by the Coronavirus Aid, Relief, and Economic Security (CARES) Act to expand and deploy the Medicare Accelerated and Advance Payment Program operated by the Centers for Medicare and Medicaid Services (CMS). This program, among other tools from HHS, has assisted doctors, hospitals, and other health care entities as they serve on the front line of the COVID-19 public health emergency.

As you know, Section 3719 of the CARES Act (P.L. 116-136) expanded Medicare's Accelerated and Advance Payment Program. As described in the CARES Act, eligible inpatient acute hospitals can request an accelerated payment from Medicare to help their cash flow during the pandemic, both for resources to treat and prepare for COVID-19 patients. Building on the CARES Act, CMS extended such payments to other Medicare Part A providers and Part B suppliers so that they too could request accelerated payments from Medicare. Hospitals, critical access hospitals (CAHs), and other providers participating in Medicare are now eligible to apply for an emergency upfront payment, which is calculated according to their net Medicare reimbursement from the second half of the 2019 calendar year. Medicare will then begin offsetting repayment against future claims 120 days after a hospital or provider first receives the payment. If hospitals have not repaid CMS the full balance after one year, and providers have not repaid CMS the full balance after 210 days, CMS will begin charging 10.25 percent interest on the remaining balance.<sup>1</sup>

As we are sure you are hearing as well, our doctors, hospitals, and other health care entities are expressing concern with respect to this substantial interest rate. Physician offices and outpatient surgical practices have followed CMS recommendations and suspended the non-essential surgeries and procedures that comprise a majority of their revenue. As our hospitals are on the front lines of this crisis, they are also standing down non-essential procedures while absorbing increased expenses preparing for and responding to COVID-19. We have heard from health care providers who are concerned they will not have the sufficient patient volume needed to repay CMS at the speed necessary to avoid the high interest rate. With

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<sup>1</sup> <https://www.hhs.gov/about/agencies/asfr/finance/financial-policy-library/interest-rates/index.html#2020>

this concern in mind, some of these health care entities are hesitating to utilize the Accelerated and Advance Payment Program.

The Accelerated and Advance Payment Program has already shown the capacity to be a critical tool for doctors, hospitals, and other health care providers to access urgently needed finances to maintain their operations and address the public health emergency. The fact that CMS delivered nearly \$34 billion in accelerated payments in the first week shows that this program is meeting a critical need. However, in order to make this program even more effective, we urge you to modify it so that health care providers can access necessary cash flow without the fear of accruing 10.25 percent interest. While our providers are rightfully focused on the public health emergency we are facing today, we must also ensure we are not setting them up for failure once this crisis passes.

The Social Security Act requires that “interest shall accrue...at a rate determined in accordance with the regulations of the Secretary of the Treasury applicable to charges for late payments.”<sup>2</sup> Currently, those rates are set at 10.25 percent interest. However, the law governing these interest payments provides the Secretary of Health and Human Services the flexibility to set a different rate.<sup>3</sup> Furthermore, the Department of Health and Human Services’ regulations give the Secretary the ability to waive this interest if the interest is “against equity and good conscience” or “not in the best interest of the United States.”<sup>4</sup>

Given the statute, we urge you to use your authority to either extend the repayment period before interest will accrue or reduce or eliminate the interest rate altogether. These advanced payments were meant to ensure the viability of our providers during times of hardship, and during this particular emergency when there is uncertainty to how quickly patients will be able to return to elective healthcare, we ask that you consider providing for flexibility.

Thank you for your consideration of this urgent matter. We look forward to working with the Department as we empower our healthcare system with the tools and flexibility needed to address the COVID-19 public health emergency.

Sincerely,



Brad Wenstrup, D.P.M.  
Member of Congress



Ron Kind  
Member of Congress



Mike Kelly  
Member of Congress



Bradley S. Schneider  
Member of Congress

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<sup>2</sup> Section 1815(d) of the Social Security Act

<sup>3</sup> 31 USC 3717(g), 31 USC 3717(h)

<sup>4</sup> 45 CFR 30.18 (g)(2)